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IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,  
12 Plaintiff,  
13 v.  
14 PATRICIA CASTANEDA,  
15 Defendant.

CASE NO. 2:21-cr-15 KJM  
STIPULATION REGARDING USE OF  
VIDEOCONFERENCE DURING  
ARRAIGNMENT AND CHANGE OF PLEA  
HEARING; FINDINGS AND ORDER  
DATE: March 22, 2021  
TIME: 9:00 a.m.  
COURT: Hon. Kimberly J. Mueller

**BACKGROUND**

18 On January 25, 2021, the United States filed an information charging defendant Patricia  
19 Castaneda with federal program theft, in violation of 18 U.S.C. § 666(a)(1)(A). An arraignment and  
20 change of plea hearing in this matter are scheduled for March 22, 2021.

21 On March 27, 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security Act  
22 (“CARES Act”). The CARES Act empowered the Judicial Conference of the United States and Chief  
23 District Judges to authorize plea and sentencing hearings by video or telephonic conference when  
24 1) such hearings “cannot be conducted in person without seriously jeopardizing public health and  
25 safety;” and 2) “the district judge in a particular case finds for specific reasons that the plea or  
26 sentencing in that case cannot be further delayed without serious harm to the interests of justice.” *Id.*,  
27 Pub. L. 116-23 § 15002(b)(2). It also empowered Chief District Court Judges to authorize arraignments  
28 by video or teleconference. *Id.*, § 15002(b)(1).

1       On March 29, 2020, the Judicial Conference of the United States made the findings required by  
2 the CARES Act, concluding that “emergency conditions due to the national emergency declared by the  
3 President under the National Emergencies Act (50 U.S.C. § 1601, et seq.) with respect to the  
4 Coronavirus Disease 2019 (COVID-19) have materially affected and will materially affect the  
5 functioning of the federal courts generally.”

6       On January 4, 2021, for the reasons set forth in General Orders Nos. 610, 611, 612, 613, 614,  
7 615, 616, 617, 618, 620, 621, and 624, the Chief Judge of this District, per General Order 628, also  
8 made the findings required by the CARES Act: “[F]elony pleas under Rule 11 of the Federal Rules of  
9 Criminal Procedure and felony sentencing under Rule 32 of the Federal Rules of Criminal Procedure  
10 generally still cannot be conducted in person in this district without seriously jeopardizing public health  
11 and safety.” Accordingly, the findings of the Judicial Conference and General Order 628 establish that  
12 plea and sentencing hearings cannot safely take place in person. General Order 628 also authorizes  
13 arraignments by videoconference.

14      In order to authorize change of plea hearings by remote means, however, the CARES Act—as  
15 implemented by General Order 628—also requires district courts in individual cases to “find, for  
16 specific reasons, that felony pleas or sentencing in those cases cannot be further delayed without  
17 serious harm to the interests of justice.” General Order 628 further requires that the defendant consent to  
18 remote proceedings. Finally, the remote proceeding must be conducted by videoconference unless  
19 “videoconferencing is not reasonably available.” In such cases, district courts may conduct hearings by  
20 teleconference.

21      The parties hereby stipulate and agree that each of the requirements of the CARES Act and  
22 General Order 628 have been satisfied in this case. They request that the Court enter an order making  
23 the specific findings required by the CARES Act and General Order 628. Specifically, for the reasons  
24 further set forth below, the parties agree that:

25      1)     The change of plea hearing in this case cannot be further delayed without serious harm to  
26 the interest of justice, given the public health restrictions on physical contact and court closures existing  
27 in the Eastern District of California, the fact that the parties have reached a plea agreement to resolve  
28 this case, and the backlog of cases that is likely to increase in this District if criminal matters do not

1 proceed by videoconference when the defendant consents and resolution has been reached between the  
2 parties; and

3           2) The defendant waives her physical presence at the arraignment and change of plea  
4 hearing and consents to remote hearing by videoconference and counsel joins in that waiver.

## **STIPULATION**

6 Plaintiff United States of America, by and through its counsel of record, and defendant, by and  
7 through defendant's counsel of record, hereby stipulate as follows:

8       1. The Governor of the State of California declared a Proclamation of a State of Emergency  
9 to exist in California on March 4, 2020.

10       2. On March 13, 2020, the President of the United States issued a proclamation declaring a  
11 National Emergency in response to the COVID-19 pandemic.

12        3. In their continuing guidance, the Centers for Disease Control and Prevention (CDC) and  
13 other public health authorities have suggested the public avoid social gatherings in groups of more than  
14 10 people and practice physical distancing (within about six feet) between individuals to potentially  
15 slow the spread of COVID-19. The virus is thought to spread mainly from person-to-person contact, and  
16 vaccines have not been widely distributed to the general population.

17       4. On March 17, 2020, this Court issued General Order 611, noting the President's and  
18 Governor of California's emergency declarations and CDC guidance, and indicating that public health  
19 authorities within the Eastern District had taken measures to limit the size of gatherings and practice  
20 social distancing. The Order suspended all jury trials in the Eastern District of California scheduled to  
21 commence before May 1, 2020.

22       5. On April 16, 2020, the Judicial Council of the Ninth Circuit declared a judicial  
23 emergency in this District pursuant to 18 U.S.C. § 3174(d), based on the District’s “critically low  
24 resources across its heavy caseload.” The report accompanying the Judicial Council’s declaration  
25 analyzed the public safety dangers associated with the COVID-19 pandemic and examined both the  
26 District’s caseload (the District currently ranks first in the Ninth Circuit and eighth nationally in  
27 weighted filings) and its shortage of judicial resources (the District is currently authorized only six  
28 district judges; two of those positions are currently vacant and without nominations). The report further

1 explained that a backlog of cases exists that “can only start to be alleviated” when the CDC lifts its  
2 guidance regarding gatherings of individuals.

3       6. On April 17, 2020, General Order 617 issued, continuing court closures through June 1,  
4 2020, and authorizing further continuances of hearings and exclusions under the Speedy Trial Act.

5       7. On May 13, 2020, General Order 618 issued, continuing court closures until further  
6 notice and authorizing further continuances of hearings and exclusions under the Speedy Trial Act  
7 through May 2, 2021.

8       8. General Order Nos. 613, 614, 615, 616, 620, 621, and 624 have also issued and made  
9 findings and implementing temporary emergency procedures in response to the COVID–19 crisis, and  
10 these General Orders either remain in effect or have been superseded by a subsequent General Order  
11 extending their provisions, with General Order 624 having expired on December 29, 2020. On January  
12 4, 2021, General Order 628 issued, authorizing further continuances of hearings and exclusions under  
13 the Speedy Trial Act for another 90 days unless terminated earlier.

14       9. Given these facts, it is essential that Judges in this District resolve as many matters as  
15 possible via videoconference and teleconference during the COVID-19 pandemic. By holding these  
16 hearings now, this District will be in a better position to work through the backlog of criminal and civil  
17 matters once in-person hearings resume.

18       10. The change of plea hearing in this case accordingly cannot be further delayed without  
19 serious harm to the interests of justice. If the Court were to delay this hearing until it can be held in-  
20 person, it only would add to the enormous backlog of criminal and civil matters facing this Court and  
21 every Judge in this District, when normal operations resume.

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11. Under CARES Act § 15002(b), defendant consents to proceed with the arraignment and change of plea hearing by videoconference. Counsel joins in this consent.

## IT IS SO STIPULATED.

Dated: March 5, 2021

**PHILLIP A. TALBERT**  
Acting United States Attorney

/s/ MATTHEW THUESEN  
MATTHEW THUESEN  
Assistant United States Attorney

Dated: March 5, 2021

/s/ ROBERT M. HOLLEY  
ROBERT M. HOLLEY  
JASON R. HOLLEY  
Counsel for Defendant  
PATRICIA CASTANEDA

## **FINDINGS AND ORDER**

1. The Court adopts the findings above.
  2. Further, the Court specifically finds that:
    - a) The change of plea hearing in this case cannot be further delayed without serious harm to the interest of justice; and
    - b) The defendant has waived her physical presence at the arraignment and change of plea hearing and consents to remote hearing by videoconference.
  3. Therefore, based on the findings above, and under the Court's authority under § 15002(b) CARES Act and General Order 628, the arraignment and change of plea hearing in this case will be conducted by videoconference.

IT IS SO FOUND AND ORDERED this 8<sup>th</sup> day of March 2021.

**CHIEF UNITED STATES DISTRICT JUDGE**